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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/253,250	02/19/1999	MICHAEL E. BASKEY	PO9-99-014	5382

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EXAMINER

TODD, GREGORY G

ART UNIT

PAPER NUMBER

2157

DATE MAILED: 12/23/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/253,250	BASKEY ET AL.
	Examiner Gregory G Todd	Art Unit 2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 27 September 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-22 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-22 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 16.

4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Response to Amendment***

1. This is a fourth office action in response to applicant's amendment filed, 27 September 2003, of application filed, with the above serial number, on 19 February 1999 in which claim 14 has been amended. Claims 1-22 are therefore pending in the application.

### ***Specification***

2. The amendment filed 27 September 2003 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The main storage containing a plurality of host images, each host image for including an application server. The examiner has reviewed the portions of the specification applicant relies on, including the *original* claim 1, as disclosing the main storage containing a plurality of host images, each host image for including an application server, and has not found evidence to support the new matter.

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 4, 6, 10-13, 14-15, 17, and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caldarale et al (hereinafter "Caldarale", 5,659,794) in view of Provino et al (hereinafter "Provino", 5,778,384).
3. As per Claim 1, Caldarale discloses an apparatus for providing direct processing access between application servers and application users wherein Caldarale discloses:
  - main storage capable of establishing processing communication with more than one application server (feature of Fig. 1 (24); at least col. 6, lines 21-27, 9-12);
  - main storage containing a queuing mechanism for retrieval and storage of incoming and outgoing data without causing interrupts in any running programs (feature of Fig. 2 (59 &60)) (at least col. 8, lines 15-16, 25-27);
  - an interface element capable of establishing processing communication between said queuing mechanism and at least one application user (NIOP) (feature of Fig. 1 (10 & 46 & 16));
  - an interrogator (network I/O microcode controlling queue bank) operating independent of any application server for examining multiple queues in queue mechanism to transfer appropriate requests, responses and data between application servers and application user(s) (at least col. 7, line 44 - col. 8, line 25).

Caldarale fails to explicitly disclose each application server in a separate image provided for virtual systems in said main storage. However, the use and advantages for using such a virtual imaging system is well known to one skilled in the art at the time the

invention was made as evidenced by the teachings of Provino (at least col. 7, lines 36-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of Provino's having virtual servers into Calderale's system as this would enhance Calderale's system to be able to have different queues for the same server due to the virtual designation and thus allowing more flexibility for Calderale's system to have different queues in instances where more than one application is operating on a single server.

4. As per Claim 2.

- interface element further comprises of a connector interface element (channel/peripheral interfaces ) (at least col. 6, lines 39-41)) and a network interface element (network interface) (features of Fig. 1 (10 26)).

5. As per Claim 4.

- connector interface element comprises a plurality of processors (at least one NIOP / multiple NIOPs) (at least col. 6, lines 32-46).

6. As per Claim 6.

- main storage can be in processing communication with a plurality of network elements and servers (at least col. 6, lines 21-27, 9-12; Fig. 1).

7. As per Claim 10.

- network interface element further comprises an I/O device adapter (NIOP contains...Channel/Network I/O microcode...Channel microcode utilizes CA...multiple adapters in NIOP, network channels) (at least col. 7, lines 13-19, 40-41), at least one more processor (network interface controller) (at least col. 7, lines 42-46) and a local

storage area (NIOP message buffers made up of queue banks) (at least col. 7 line 63 - col. 8 line 2).

8. As per Claim 11.

- Network Interface Element is capable of connecting to one or more individual application users (feature of Fig. 1).

9. As per Claim 12.

- Interface Element (NIOP) performs computing network environment functions establishing network communications between said application servers and said application user(s) (at least col. 7, lines 50-57).

10. As per Claim 13.

- Interface Element (NIOP) performs control unit (I/O device controlling) functions (buffering and queuing) (at least col. 7, lines 50-57).

11. As per Claim 14, Calderale discloses an apparatus for providing direct processing access between a main storage, capable of connecting to more than one application server and an interface element with at least one adapter capable of establishing processing communication with at least one application user(s), and adapter wherein Calderale discloses:

- data receivers set up in each of the application servers for processing data (servers implicitly process received data) (at least col. 6, lines 20-31);

- a plurality of queues located in main storage for providing continuous running of programs without interruptions (feature of Fig. 2);

- an updator for changing the status of network computing system every time new data is received, deleted or modified (at least col. 3, lines 55-65; col. 9, lines 29-31);
- an interrogator operating independent of any application server for interrogating multiple existing queues in main storage simultaneously to process any received data or requests such that data or requests may be received from more than one application server (at least col. 7, line 44 - col. 8, line 25);
- a determinator for interrogation and routing of data to appropriate application user to which data has been forwarded (transferring to particular network interface based on network interface ID and address) (at least col. 17, lines 21-51).

Caldarale fails to explicitly disclose each application server in a separate image provided for virtual systems in said main storage. However, the use and advantages for using such a virtual imaging system is well known to one skilled in the art at the time the invention was made as evidenced by the teachings of Provino (at least col. 7, lines 36-65). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of Provino's having virtual servers into Caldarale's system as this would enhance Caldarale's system to be able to have different queues for the same server due to the virtual designation and thus allowing more flexibility for Caldarale's system to have different queues in instances where more than one application is operating on a single server.

12. As per Claim 15.

- interface element further comprises of a connector interface element (channel/peripheral interfaces ) (at least col. 6, lines 39-41) and a network interface element (network interface) (features of Fig. 1 (10 26)).

13. As per Claim 17.

- main storage can be in processing communication with a plurality of network elements and servers (at least col. 6, lines 21-27, 9-12; Fig. 1).

14. As per Claim 19.

- network interface element further comprises an I/O device adapter (NIOP contains... Channel/Network I/O Microcode... Channel microcode utilizes CA... multiple adapters in NIOP, network channels) (at least col. 7, lines 13-19, 40-41), at least one more processor (network interface controller) (at least col. 7, lines 42-46) and a local storage area (NIOP message buffers made up of queue banks) (at least col. 7 line 63 - col. 8 line 2).

15. As per Claim 20.

- Network Interface Element is capable of connecting to one or more individual application users (feature of Fig. 1).

16. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Caldarae in view of Provino (hereinafter "The combination") and further in view of Carbilliet (hereinafter "Carbilliet", 6,256,696).

The combination fails to disclose using his **plurality of processors for** specifically **redundant** capabilities. However, the use and advantages for using such a protocol is well known to one skilled in the art at the time the invention was made as

evidenced by the teachings of Carbillot. Carbillot discloses using a plurality of processors for the purpose of redundancy in communication information processing systems (at least col. 1, lines 19-28). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of Carbillot's processor redundancy into The combination's multiple processors so as to protect the system from failure in the case of one processor failing for any reason, the other processor would go on to complete the information processing, especially important for critical information systems.

17. Claims 7 & 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination in view of Brandt et al (hereinafter "Brandt", 6,081,834).

Although the combination suggests using a specific network protocol (at least Calderale col. 11, lines 53-55), Calderale fails to explicitly disclose using a TCP/IP oriented web-server. However, the use and advantages for having such a protocol implemented on the network is well known to one skilled in the art at the time the invention was made as evidenced by the teachings of Brandt (at least col. 12, lines 1-7; col. 10, lines 51-55). Brandt teaches a network provider (web server) using a TCP/IP protocol. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have a TCP/IP oriented web-server on the combination's network because this would enhance the expendability and compatibility of the combination's network since it would allow for the incorporation of new and future networking protocol implementations for existing network equipment and users.

18. Claims 3 & 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination in view of Casper et al (hereinafter "Casper", 6,192,482).

The combination fails to disclose the connector interface element is in processing communication with main storage via a Self-Timed Interface or an STI bus. However, the use and advantages for using such an interface is well known to one skilled in the art at the time the invention was made as evidenced by the teachings of Casper (at least abstract; col. 7, lines 30-36). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the use of a STI bus into the combination's system because the STI interface would offer more compatible interface connectivity solutions when different equipment vendors are involved, such as a heterogeneous system environment and is additionally operated at a faster clock speed.

19. Claims 9, 18, 21 & 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination in view of Leger et al (hereinafter "Leger", 5,765,023).

20. As per Claims 9 and 18.

Although Calderale suggests using an ISA interface between the interface elements (at least col. 6, lines 32-35), Calderale and the combination fail to disclose the connector interface element and network interface element being in processing communication with one another via a PCI bus. However, the use and advantages for using such an interface is well known to one skilled in the art at the time the invention

was made as evidenced by the teachings of Leger (at least col. 3, lines 35-42). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement Leger's use of a PCI bus as opposed to Caldarale's ISA bus because a PCI bus is a more widely-used interface and is additionally operated at a faster clock speed.

21. As per Claim 21.

The combination fails to disclose the connector interface element being in processing communication with main storage via a direct access memory I/O device. However, the use and advantages for using DMA between memory and an interface is well known to one skilled in the art at the time the invention was made as evidenced by the teachings of Leger (at least Leger abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of using DMA between storage devices and I/O interfaces into the combination's system because this would enhance the speed and processing power of the other processors, by offloading this task to a DMA I/O device to move the data from one peripheral to the main memory for faster computations.

22. As per Claim 22.

The combination fails to disclose the connector interface element and network interface element being in processing communication with one another via a direct access memory I/O device. However, the use and advantages for using DMA between memory of different components (such as a peripheral and NIC) within a system is well known to one skilled in the art at the time the invention was made as evidenced by the

teachings of Leger (at least Leger abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of using DMA between I/O interfaces into the combination's system because this would enhance the speed and processing power of the other processors, by offloading this task to a DMA I/O device to move the data to/from one peripheral from/to another component such as a NIC to be transferred over a network for faster network data transmission.

### ***Response to Arguments***

23. Applicant's arguments filed 27 September 2003 have been fully considered but they are not persuasive.

Applicants argue, substantially, that a) Calderale fails to disclose a main storage unit as containing more than one image, each image containing a separate application server; and b) Contrary to the present invention, Provino is interrupt driven.

24. In response to a); In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Calderale is not relied upon as having a main storage unit containing more than one image. In fact, Provino is relied upon specifically as disclosing this limitation in the claims.

25. In response to b); Provino is not relied upon for not causing interrupts in any running programs. Provino is clearly relied upon simply as disclosing each application server in a separate image provided for virtual system in the main storage.

### ***Conclusion***

26. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Newly cited Baskey et al ('350 & 324) in addition to previously cited Downling et al, Barr et al, Mattaway et al, Jindal et al, Kailash, Bahls et al, Freund et al, Mukherjee et al, Brandt et al (6,021,430), Garcia, Bartek et al, Sharma et al, Chin et al, and Kawaguchi et al are cited for disclosing pertinent information related to the claimed

invention. Applicants are requested to consider the prior art reference for relevant teachings when responding to this office action.

28. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory G Todd whose telephone number is (703)305-5343. The examiner can normally be reached on Monday - Friday 9:00am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (703)308-7562. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

Gregory Todd  
  
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